

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 8th day of September 2008 A.D. at 7:00 p.m.

President Durfee opened the meeting with the Pledge of Allegiance to the Flag.

<b>Roll Call:</b>	Joanne M. Arruda	Louise Durfee
	Donald Bollin	Jay Edwards
	Paul E. Carroll	Brian A. Medeiros
	Hannibal F. Costa	

Town Administrator, James C. Goncalo  
Town Solicitor, Andrew M. Teitz were also present.

**Approval of Consent Agenda:**

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Councilor Carroll requested the removal of item A.1b from the Consent Agenda.  
Councilor Costa requested the removal of item A. 5 from the Consent Agenda.

Councilor Medeiros made a motion to approve the remainder of the Consent Agenda seconded by Councilor Edwards and passed unanimously.

The Consent Agenda was as follows:

**CONSENT AGENDA**

**A-1-Approval of Minutes of Previous Meetings**

- a. Approval of Council Minutes Presented on Aug 25 and Continued to Sept 8- Council Mtg Aug 12, 2008, Exec Session Minutes Aug 12, 2008, Emergency Special Council Mtg Aug 6, 2008 (Councilor Costa abstained not present at meeting), Emergency Special Council Meeting Aug 4, 2008, Council Mtg Minutes July 28, 2008 (Councilor Carroll abstained, not present at meeting), Special Council Mtg Minutes July 7, 2008 (Recessed from 6/30/08), Special Council Mtg Executive Session Minutes July 7, 2008, Special Council Mtg Minutes June 30, 2008 (Recessed to 7/7/08)
- c. Approval of Executive Session Minutes August 25, 2008

**A-2-Receipt of Minutes from the Following Boards, Commissions**

- a. Planning Board (4)
- b. Wastewater Management Commission
- c. Economic Development Commission (2)

**A-3-CORRESPONDENCE - RECEIVE AND FILE**

Received From Office of Housing and Community Development Affordable Housing Plan Progress Report July 1, 2007-June 30, 2008

**A-4- Approval of Tax Assessor Abatements**

**A- 1-b- Approval of Regular Council Meeting Minutes August 25, 2008**

Councilor Carroll requested removal of this item from the Consent Agenda, Council Meeting Minutes from August 25,2008 so they could be amended as follows. On the third page under Personnel Board, on the motion to appoint Karl B. Malafey, the line should be, seconded *by Councilor Arruda the motion passed 6-1, Councilor Carroll opposed*. Under Planning Board the last line should read: *For the record Councilor Carroll noted he had previously voted in the affirmative or the majority for Cynthia Nebergall and Peter Corr in the first motion*.

Councilor Carroll then motioned to approve the Council Meeting Minutes of August 25,2008 as corrected. Seconded by Councilor Arruda the motion passed unanimously.

**A- 5- Schedule Show cause Hearing for Spa Island Enterprises, Inc. d/b/a Lil’ Bear Lounge on September 22, 2008 - Requested by RI State Fire Marshal’s Office, Tiverton Fire and Tiverton Code Enforcement for Liquor License, Victualling and Tobacco License**

Councilor Costa requested removal of this item and asked if this was ready for Council action. Noted on the report from William Howe, Chief of Inspections, Rhode Island State Fire Marshall, item #16 and #18 were currently being addressed in 2<sup>nd</sup> Division Court. Chief Robert Lloyd responded that the District Court ordered these items be brought back to the local Board of Licensing due to the severity of the violations. The matter is still proceeding through the Courts. Councilor Costa requested a copy of the decision. Chief Lloyd replied the Attorney General’s Office had the decision. Councilor Costa maintained it was too early to have a Show Cause hearing then motioned to table this item until more information was received. Motion failed for lack of a second. Chief Lloyd urged the Council at this time, stated he understood Councilor Costa was looking for a written judgment and would try to get a copy ordered by the Court to be brought back before the Council. The onus and liability rests with the Town of Tiverton.

Councilor Edwards made a motion to approve this as part of the Consent Agenda. The motion was seconded by Councilor Medeiros to schedule the September 22 show cause hearing and passed on a vote of 6-1, Councilor Costa opposed.

Council President Durfee at this time recused herself from this matter and asked Council Vice President Bollin to handle the Public Hearing involving the Tiverton Land Trust.

**PUBLIC HEARINGS- ADVERTISED**

**Tiverton Land Trust – Requests Noise Variance for “Country Day at Pardon Gray”, September 13<sup>th</sup> From 10 a.m. to 4 p.m.- Subject to Meeting All Legal Requirements**

Councilor Bollin opened the Public Hearing asking for comments from the public. There were no comments from the public so Councilor Bollin closed the Public Hearing and placed the matter before the Council. There was no discussion from the Council.

Councilor Costa motioned to grant a Noise Ordinance Variance to the Tiverton Land Trust for “Country Day at Pardon Gray” on September 13,2008 from 10:00 a.m. to 4:00 p.m. Seconded by Councilor Edwards the motion passed on a vote of 6-0-1, Councilor Durfee abstained.

The Town Council was sitting as the Board of Licensing Commissioners:

## **BOARD OF LICENSING COMMISSIONERS**

### **APPOINTMENTS & RESIGNATIONS**

#### **D 1.Town Administrator – Resignation of Noel Berg from Tiverton Planning Board**

#### **D 2.Town Administrator – Resignation of Rosemary Eva from Tiverton Planning Board**

#### **D 3.Appointments Continued From Aug 25th**

Councilor Edwards motioned to table D1, D2, and D3, seconded by Councilor Medeiros. Councilor Edwards believed this should be left for future discussion. Councilor Medeiros was concerned about the Town Planner, who according to policy set by the Council, was to serve as the Administrative Officer. Not in favor of removing Chris Spencer from the Administrative Officer position at this point. Some type of mediation needs to be done to make this a workable situation.

Councilor Carroll disagreed, felt this topic was getting old. Planning Board needs to function, previous Administrator tried to make this work. Councilor Durfee felt more time was needed Councilor Bollin stated the problem was the resignations were effective immediately, those members probably would not attend meetings, Planning Board would only have enough members to constitute a quorum, items will get through by default if we fail to act.

Council President Durfee spoke to Peter Ruggiero, attorney for the Planning Board, until the Council approves the resignations; they are still members of the Planning Board while the Council looks for new applicants. Councilor Carroll thanked the members for their years of service having served the Board well and accepted their resignations.

Councilor Edwards taken by surprise with the resignations, felt time was needed to find new appointees. Counting on these people to fulfill their obligations until the Town had the opportunity to replace them.

President Durfee then called for a vote on the motion to table, motion failed on a vote of 3-4, Councilors Arruda, Carroll, Costa and Bollin opposed.

Councilor Carroll motioned to accept the resignations of Noel Berg and Rosemary Eva. The motion was seconded by Councilor Costa and passed on a vote of 4-3, Councilors Edwards, Medeiros and Durfee opposed.

Councilor Carroll motioned to continue to the next meeting the re-appointment of the Administrative Officer continued from August 25<sup>th</sup>.Seconded by Councilor Medeiros the motion passed on a vote of 5-2, Councilors Edwards and Durfee opposed.

Town Clerk would advertise to try and get volunteers.

### **UNFINISHED BUSINESS**

#### **Councilor Medeiros – Discussion of Voter Guide to Proposed Charter Amendments For November Election Ballot Continued From August 25<sup>th</sup> Meeting**

Councilor Medeiros was looking for an actual cost with relation to direct mailing, etc. Town Clerk Nancy L. Mello checked into past Charter Review mailings. At the time the Newport Daily News provided the booklets. They no longer provide that service. The Clerk was also waiting for an estimate from Paul's Press. Clerk hoped not to exceed \$2500, as she did not have the funds. Asked Town Administrator Goncalo for some help with the funding. Clerk stated she would try to put something together for the next meeting.

Councilor Medeiros volunteered to provide some assistance. Councilor Bollin was looking for a hard figure related to the cost and mailing. Councilor Costa suggested advertising might be less costly. Councilor Arruda suggested putting an insert into the newspaper. Councilor Durfee believed voters needed something to look at.

Councilor Bollin motioned to continue this item to the next Council Meeting. Seconded by Councilor Medeiros the motion passed unanimously.

#### **Town Administrator – Request Permission to Purchase Tasers from Sole Source – Taser International in Amount of Approximately \$30,000 Utilizing Drug Forfeiture Monies Continued from August 25<sup>th</sup>**

Chief Blakey accompanied by R.J. Keough, a representative of Taser International came before the Council on the Chief's request to purchase tasers. Councilor Bollin questioned the number of officers injured on duty. Chief Blakey responded 5 officers have been injured each being out approximately one month. Councilor Medeiros asked if this was related to direct physical contact which was confirmed by Chief Blakey. Councilor Costa questioned whether the Town needed 30 at a cost of \$1000 each. Cost is covered by drug forfeiture funds, issuing one taser per officer there is more accountability and they last longer.

Chief Blakey stated his intent was to train one third of the force at a time. Councilor Durfee voiced concerns about the use of tasers in the "heat of battle" on pregnant women, elderly and people with heart conditions. Would like to ask some other Police Chiefs about this product. If the choice came between lethal and non-lethal force then non-lethal would be first. Mr. Keough replied he is also an officer in Connecticut and this is the most studied non-lethal device by law enforcement, injuries usually occur from falls and not from an electrical shock. Studies have shown it will not damage heart or fetal tissue. Three key components for the use of the taser are a good policy, training and oversight. Police officers must know when and where to use the device. No use of force is 100% safe. Mr. Keough showed the Council an actual taser without the cartridge, which has a lighting device and a camera. Internally records time and date of firing. Every cartridge is serialized for accountability.

Councilor Medeiros asked about maintenance and replacement costs. Roughly \$40-60 per year with an extended warranty of \$175 per device. Councilor Durfee noted the Trust report indicated mostly smaller communities use the device and wondered why larger cities were not listed. Chief said this was the Trust's list, similar communities use the device. Keough responded larger cities are self-insured. Chief Blakey noted many communities in nearby Massachusetts have tasers. Did not take idea lightly; wanted best technology for the Town. Councilor Edwards asked the Chief how many times would he think the device would be used. On the high side, ½ dozen times. Usage levels off after time.

Councilor Medeiros questioned Chief Blakey if the drug forfeiture money could be used for anything else. Chief Blakey replied he would like an addition to the building but that the tasers were at the top of the list. Councilor Bollin also asked about the policy regarding the need to request a supervisor present before using the device and about transportation to the nearest RI hospital. Chief replied state protocols and the summons or warrant process would be used.

Councilor Costa motioned to grant subject to close review and rewrite of new general orders by the Town Administrator. Seconded by Councilor Carroll the motion passed on a vote of 5-2, Councilors Durfee and Bollin opposed. Chief Blakey thanked the Council for their consideration.

**Town Administrator – Discussion on Economic Development Commission**

Administrator Goncalo was meeting with Len Schmidt, Chairman of the Economic Development Commission, to formulate plans and an approach, would have more information at the next meeting. President Durfee commended Planning Board Clerk, Kate Michaud for keeping the Council informed.

**FINANCIAL BUSINESS:**

**NEW BUSINESS:**

**BIDS & REQUESTS FOR PROPOSALS**

**TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS**

**PUBLIC ANNOUNCEMENTS:**

1. T/A appointed two EMA deputies, Fred Almeida and William Tavares and along those lines looking for volunteers to become shelter assistants. Contact the EMA director at 625-6707.
2. On Friday a Code Red test was performed. Out of 6000 households, 3800 were contacted and should have received a message from the Police Chief. The test was completed in seven minutes, however, looking into why more households were not contacted. Database supposed to be comprised of all listed numbers.
3. T/A attended a meeting in which the Recreation Commission received a donation of two new scoreboards and bleaches for the Town Farm, very nice gesture on the part of Central Baptist Church and would like to thank them.
4. September 14 at St. Christopher’s Church a meeting of the Friends of the Library includes refreshments and a presentation by Keith Stokes.
5. The Treasurer’s Office had new software installed, developing reports, some delays due to the transfer of data.
6. Tuesday Sept.9<sup>th</sup> is Primary Day for voters who are Democrats or independents. Five polling places are open: Town Hall, Crandall Road Fire Station, Countryview Estates, Tiverton High School and Fire Station on Main Road.
7. Audit for F/Y ending June 30, 2008 is in process.

**COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

Councilor Carroll asked the Council to keep October 6th open for a special meeting or a workshop.

**TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

Provided the Council’s response to the Attorney General regarding the Open Meeting complaint, have not heard from them. Asked the Council for permission to advertise for the Public Hearings on October 14 for the Juvenile Hearing Board, Historic Preservation Advisory Board and Building Code Board of Appeals. Will have a draft at next Council Meeting. Councilor Bollin motioned to advertise the Public Hearings for the Juvenile Hearing Board, Historic Preservation Advisory Board and Building Code Board of Appeals for October 14, seconded by Councilor Arruda, motion passed unanimously.

**CLOSED EXECUTIVE SESSION**

A motion was made by Councilor Bollin to enter into Executive Session pursuant to 42-46-5(a)(2)- Litigation. The motion was seconded by Councilor Medeiros and then passed unanimously.

The Council entered into Executive Session at approximately 8:05 p.m.

The Council returned to Open Session at approximately 9:20 p.m.

**OPEN SESSION:**

Council President Durfee announced that no formal action was taken in Executive Session.

Councilor Edwards motioned to seal the minutes, seconded by Councilor Costa. Motion passed unanimously

**ADJOURNMENT:**

Councilor Bollin motioned to adjourn, seconded by Councilor Carroll. Motion passed unanimously. Council adjourned at 9:25 p.m.

A True Copy.

ATTEST: \_\_\_\_\_  
Nancy L. Mello, Town Clerk